

REMARKS/ARGUMENTS

In the Office action dated March 17, 2008, the Examiner rejected claims 1-13 and 18 under 35 U.S.C. §103(a) as allegedly anticipated by Bonutti (U.S. Patent No. 5,814,073) in view of Klyce, et al. (U.S. Patent No. 4,863,430). However, Applicant has amended independent claim 1 to recite the limitations of claims 5 and 6, and has canceled claims 5 and 6. In particular, Applicant has amended claim 1 to recite that the dilating tip comprises a ring slidably mounted to the tubular body, wherein the distal ends of the segments of the segmented surface are hingedly attached to the ring, and that proximal movement of the ring relative to the tubular body exerts a force on the segmented surface to thereby open the segmented surface. Independent claim 18 recites similar limitations, and Applicant has amended this claim to recite a slidable member connected to the ring of the dilating tip, wherein proximal movement of the slidable member relative to the tubular body exerts a force on the segmented surface and the generally rigid tube to thereby open the segmented surface and the generally rigid tube. Neither Bonutti nor Klyce teach or suggest these features.

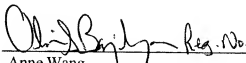
Although the Examiner asserts that Figure 1 of Bonutti discloses a ring mounted in surrounding relation to the tubular body (Office action, page 3), Figure 1 nowhere depicts such a ring, and the disclosure of Bonutti nowhere discloses or describes such a ring. Rather, Bonutti appears to disclose only a leading end portion 62 formed of a plurality of segments 88, 90, 92 and 94 that cooperate to provide a pointed leading end portion with a generally conical configuration. Column 4, line 62 through column 5, line 14. The segments are forced into a closed condition in response to force exerted by body tissue. Column 5, lines 20-24. Bonutti nowhere discloses that the segments are attached to a ring mounted to the tubular body, as recited in independent claims 1 and 18. As such, Bonutti also fails to teach or suggest that the distal ends of the segments of the segmented surface are hingedly attached to the ring. As Klyce fails to remedy the deficiencies of Bonutti, independent claims 1 and 18, and all claims dependent therefrom, including claims 2-13 and new claims 23 and 24, are allowable over Bonutti and Klyce.

Appln No. 10/618,033
Amdt date August 18, 2008
Reply to Office action of March 17, 2008

The Examiner also rejected claims 14-17 and 19 under 35 U.S.C. §103(a) as allegedly obvious over Bonutti and Klyce in view of either Wallace, et al. (U.S. Patent No. 6,254,628) or Devos, et al. (U.S. Patent No. 6,099,511). However, each of claims 14-17 and 19 depends from one of independent claims 1 and 18, both of which are allowable over Bonutti and Klyce, as discussed above. Neither Wallace nor Devos remedies the deficiencies of Bonutti and Klyce, as neither reference discloses the devices recited in independent claims 1 and 18. Accordingly, independent claims 1 and 18, and all claims dependent therefrom, including claims 14-17, 19, and new claims 23 and 24, are allowable over Bonutti, Klyce, Wallace and Devos.

Claims 1-4, 7-19, 23 and 24, now remain pending in this application. By this amendment, Applicant has amended claims 1, 18 and 19, canceled claims 5, 6 and 20-22, and added new claims 23 and 24. The amendments and new claims find full support in the original specification, claims and drawings, and no new matter is presented. In light of the above amendments and remarks, Applicant submits that all of pending claims 1-4, 7-19, 23 and 24 are in condition for allowance. Applicant therefore respectfully requests reconsideration and timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number indicated below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By  Reg. No. 55,905 for
Anne Wang
Reg. No. 36,045
626/795-9900

LES/les

LDB PAS809569.1-*08/18/08 4:08 PM